



Journal of Politics in Latin America

Arretche, Marta (2013), Demos-Constraining or Demos-Enabling Federalism? Political Institutions and Policy Change in Brazil, in: *Journal of Politics in Latin America*, 5, 2, 133-150.

ISSN: 1868-4890 (online), ISSN: 1866-802X (print)

The online version of this article can be found at: <www.jpla.org>

Published by

GIGA German Institute of Global and Area Studies, Institute of Latin American Studies and Hamburg University Press.

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Research Note

Demos-*Constraining* or Demos-*Enabling* Federalism? Political Institutions and Policy Change in Brazil

Marta Arretche

Abstract: This research note shows the demos-enabling elements of the Brazilian federal state by examining the decision-making process of 59 legislative initiatives regarding the taxes, policies and expenditures of subnational units submitted to the Brazilian Congress between 1989 and 2006. The combination of two political institutions – the federal government’s broad powers to make decisions on subnational matters (right to decide) and the majority principle for approving changes in the federal *status quo* – empowers the center without diminishing the rights of subunits. It is not necessary to obtain supermajorities in numerous veto arenas in order to approve legislation aimed at providing national goods, and regional minorities have few opportunities for vetoing. The center is empowered, not weak.

■ Manuscript received 21 August 2012; accepted 7 July 2013

Keywords: Brazil, comparative federalism, demos-enabling federalism

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Introduction

Federal states typically guarantee political rights to constituent units by constitutionally empowering them to pursue their own policies and participate in the national decision-making process. Federal arrangements vary from being *demos-constraining* to being *demos-enabling* (Stepan 1999, 2004a). The vertical distribution of competences can range from centralization at the federal level to broad autonomy for states (Obinger, Leibfried, and Castles 2005) – although endogenous changes can gently tilt the balance of power toward either arrangement (Bednar 2009; Bednar, Eskridge, and Ferejohn 1999; Chibber and Kollman 2004; Pierson 2007; Riker 1975).

Political scientists disagree about the virtues and vices of different federal arrangements. Some warn that an empowered center risks exploiting citizens and slowing economic growth (Weingast 1995) while others call attention to the risks that subnational governments that are too autonomous can pose to macroeconomic performance (Rodden 2006; Wibbels 2000) and inequality reduction (Linz and Stepan 2000; Rodden and Rose-Ackerman, 1997). Some scholars fear that state autonomy will be compromised as a result of the lack of robust safeguards against federal encroachment (Bednar 2009; Bednar, Eskridge, and Ferejohn 1999); others draw attention to the risk of decision-making deadlocks from empowered subnational actors (Scharpf 1988; Stepan 2004a; Tsebelis 2002). Despite such normative preferences, political science has accumulated convincing empirical evidence of a trade-off between the concentration of authority and the speed and decisiveness of decision-making. It is expected that decentralized federal states will be deadlocked while centralized ones will produce resolute decisions (Stepan 2004a; Riker 1964).

There seems to be a paradox in the current operation of the Brazilian federal state, which is described as an extreme case of *demos-constraining* federalism whose institutions are expected to systematically defeat initiatives to provide national goods (Samuels and Mainwaring 2004; Stepan 1999 and 2004a). Its outcomes, however, contradict such expectations. Rodden (2006: 247) states that:

The Cardoso administration set out to transform one of the world's most decentralized federations into a tightly managed, hierarchical regime not unlike that found in many unitary systems.

Fenwick (2010) shows how Brazil's central government bypassed governors to spread non-contributory welfare goods across the territory to alleviate poverty. Hallerberg (2010) goes as far as to argue that the Brazilian model could show the European Union how to manage the disruptive challenges posed by its member states being entitled to handle their own finances.

Actually, starting in the early 1990s, a broad set of laws regulating the taxation, expenditures and public policies of subnational units was adopted in Brazil (Abrucio and Costa 1999; Almeida 2005; Arretche 2007; Melo 2005) – what would be called a “*demos-enabling*” polity by Stepan (1999, 2004a, 2004b).

This research note¹ scrutinizes more empirical evidence than previous studies of Brazilian federalism, and examines the 59 federal legislation initiatives referring to the taxation, spending, and policy-making authority of subnational units that were submitted to Congress between 1989 and 2006. It makes use of two central concepts in federal theory. The first addresses the ‘boundary problem’ referring to the distribution of authority between levels of government, that is, the policy areas in which each level of government is entitled to initiate legislation (Chibber and Kollman 2004; Obinger, Leibfried, and Castles 2005; Stepan 1999 and 2004a; Weingast 1995). The second, which is known as the ‘veto-player theory’, holds that federal systems tend to exhibit a greater number of veto players than unitary ones (Tsebelis 1997; Weaver and Rockman 1993) since federalism creates specific institutions to protect constituent units from central government attempts to expropriate their powers (Rodden 2006). Examples of such institutions that serve to make changes harder include bicameralism, the requirement to hold referenda in order to amend the constitution and rules requiring supermajority votes (Immergut 1996; Lijphart 1999; Obinger, Castles, and Leibfried 2005). Many comparative studies assume that under federalism, policy change requires supermajorities (Lijphart 1999; Stepan 1999 and 2004a).

This study highlights the *demos-enabling* elements of Brazilian federalism. Brazilian political institutions do not limit changes to the federal *status quo*: they make them possible. The 1988 Federal Constitution (FC) empowers the federal government to initiate legislation in all policy areas, including those with decentralized implementation, so that in most policy areas constitutional amendments are not needed for approving legislation. Legislation on the finances, policies and spending of subnational units can be submitted to Congress either as complementary laws – addressed to regulate the constitution – or ordinary laws. Thus, many policy changes affecting subnational affairs can be approved in Congress by a simple plurality of votes. Moreo-

1 This research was supported by the Center for Metropolitan Studies, grant no. 2013/07616-7, São Paulo Research Foundation (FAPESP). This version benefited from comments by Gilberto Hochmann and Fernando Limongi, as well as JPLA’s anonymous reviewers. The author thanks Andrea Freitas, Danilo Buscato and Patrick Silva for their help with data treatment. Data on roll-call votes was kindly provided by the CEBRAP Legislative Databank.

ver, in Brazil it is comparatively easy to approve constitutional amendments: there is no need to hold referenda or obtain the approval of state legislatures, even if subnational interests risk being negatively affected. As a result, there are few arenas where subnational units might be able to make use of vetoes. The centralization of policy competences, combined with the majority principle for changing federal legislation, means that no supermajority is needed to change the status quo of most subnational issues. The Brazilian federal state enables the center to initiate and approve general-interest legislation.

The national government need not expand its authority to approve legislation on subnational matters. The original Constitution from 1988 gave the federal government broad policy authority; the set of changes that have since been adopted are not viewed as having violated the basic safeguards to federalism, but rather as having been made within institutions that are considered typical of federal states. Voters display dual and complementary identities (Stepan 2004a), and state-level political actors are neither eager to secede from the federation nor alienated (Bednar, Eskridge, and Ferejohn 1999). National arenas are institutionally empowered to formulate demands and incorporate them into policy, while an independent court rules on potential conflicts between constituent units (Bednar, Eskridge, and Ferejohn 1999; Lijphart 1999).

The current debate about Brazilian federal institutions is informed by the theoretical literature on legislative and government coalition formation, and pits those who argue that the electoral arena decisively affects parliamentary behavior in national chambers (Abrucio 1998; Ames 2001; Mainwaring 1997; Samuels 2003; Stepan 2004b) against those who maintain that such behavior is heavily affected by the centralization of the parliamentary arena (Figueiredo and Limongi 1999). It also opposes arguments that the presidential system negatively affects governability because it entails erratic and unpredictable policy outcomes (Ames and Power, 2006) with those that claim the Brazilian president's agenda-setting power leads to policy decisions similar to those made in European parliamentary systems (Limongi 2006). This debate is theoretically informed by the *distributivist* (Mayhew 1974) and partisan theories (Cox and McCubbins 1993) of parliamentary behavior, as well as theories about coalition formation in presidential and parliamentary systems (Linz 1984; Shugart and Carey 1992).

Analysts who take the distributivist position blame federalism for fragmenting national parties and also governors who are seen as able to negatively affect party discipline because they control the resources that representatives need to get reelected (Abrucio 1998; Ames and Power 2004; Samuels and Mainwaring 1997). However, robust empirical evidence does not

confirm such influence in either the Brazilian Chamber of Deputies (Arretche 2007; Cheibub, Figueiredo, and Limongi 2009; Desposato 2004) or the Senate (Arretche 2010; Neiva 2011). In fact, these studies show that both houses operate in partisan fashion.

This research note also holds that, when conceptualized in the framework of studies of legislative or government coalition formation, the federalism effect is reduced to a bargain between the president and the governors. It also argues that federal institutions have other dimensions, such as the constitutional powers of constituent units and the opportunities to veto any legislation that affects subnational governments. Such ‘rules of the game’ are specifically *federal* political institutions that independently affect the central government’s ability to initiate legislation on national matters and obtain parliamentary approval. Therefore, the cost to the federal executive of garnering legislative support would be much higher if the executive branch either had to challenge the federal compact or gather supermajorities in order to pass legislation to provide national goods, which would be true if Brazil were indeed an extreme case of demos-constraining federalism.

The rest of this study is divided into four sections, followed by a conclusion. Based on the concepts of (i) the vertical distribution of authority and (ii) the veto-player theory, the first section presents evidence on all the legislative initiatives affecting subnational interests that were examined by Congress between 1989 and 2006 (five presidential terms), and reveals an enabled, rather than a weak center. The second section examines whether these outcomes are systemic – that is, associated with the normal functioning of federal institutions – or the product of exceptionally wise presidential leadership, as Melo has suggested (2005). The third section presents the decision-making rules on federal legislative issues as framed by the original FC of 1988, and discusses the federal government’s broad authority to make nationwide policy decisions, as well as the rules for approving federal legislation – constitutional amendments, complementary laws and ordinary legislation.

1 A Strong or Weak Center?

Two concepts of federal theory – the ‘boundary problem’ and the veto-player theory – can be examined together to determine whether federal institutions constrain or enable Brazil’s national government.

As shown in Table 1, a central government that is limited to initiating and approving legislation will be weak because of its constitutional limits to making policy decisions and the numerous veto arenas that can be successfully used by opposing interests (as in Switzerland, in the upper-left quad-

rant). A different picture emerges when the central government is constitutionally entitled to initiate legislation but is weakened by many veto opportunities in the decision-making process. The institutions that are viewed as leveraging the veto powers of subunits include complicated processes to amend the constitution, bicameralism, indirect selection of representatives and overrepresentation (as in the United States, the upper-right quadrant). A third possible federal polity is one in which the central government is limited to initiating legislation, but is quite easily changed because of the relatively few veto points (the bottom-left quadrant). In these three cases, federal institutions undercut the central government’s authority to rule over constituent units. However, another combination may be conducive to policy change in stable federal democratic regimes – one that has no restrictions on the federal government initiating legislation and few veto arenas in the decision-making process (bottom-right quadrant).

Table 1: Institutional Conditions for Policy Change in Federal States

Institutional Opportunities for Vetoes	Restrictions to Union Initiatives on Legislation	
	Yes	No
Yes	<p>CONSTRAINED CENTER Central government limited in initiating legislation COMBINED WITH difficulty in changing legislation</p>	<p>JOINT-DECISION TRAP' Central government entitled to initiate legislation BUT has difficulty in changing legislation</p>
No	<p>CONSTRAINED CENTER Central government limited to initiate legislation BUT probably has success in getting legislation approved</p>	<p>ENABLED CENTER Central government entitled to initiate legislation COMBINED WITH probable success in getting legislation approved</p>

Source: Author’s own compilation.

Based on the decision-making process of all 59 federal legislative initiatives regarding subnational taxation, spending and policies submitted to Congress between 1989 and 2006, Brazil belongs in the bottom-right quadrant. The initiatives can be classified in four types: (i) matters negatively affecting state and municipal revenues; (ii) matters legislating subnational taxation; (iii) matters legislating policies of subnational units; and (iv) matters legislating subnational spending. These observations are in line with Desposato (2004), who held that to learn if subnational veto powers were employed, one need only look at any legislation that negatively affects subnational interests.

Table 2 presents the legislation approved according to these four types and shows how each affected the federal *status quo*.² Segment A refers to the Emergency Social Fund, the Fiscal Stabilization Fund and the Decentralization of Union Revenues, all of which negatively impacted the revenues of state and municipal governments. In order to carry out its own fiscal adjustment, the federal executive reversed statutes in the 1988 FC by relaxing the earmarking of federal revenues and retaining some funds that had been assigned by the Constitution to states and municipalities. The latter reversal affected one of the 1988 FC’s best-known decentralizing endeavors by reducing the amount of tax revenue that the federal government was obliged to transfer to states and municipalities. These measures affected the revenues of all constituent units, most severely impacting the North, Northeast, and Center-West states – as well as small municipalities that are dependent on constitutionally mandated transfers. Since such changes involved constitutional provisions that obliged the federal government to make transfers to constituent units, they necessitated constitutional amendments.

Table 2: Legislation on Federal Matters Examined by the Brazilian Chamber of Deputies (1989–2006)

Type of Issue	Legislation	Effect on 1988 Constitution	Constituent Units Affected	Presidential Term Approved
(A) Retaining Revenues	Emergency Social Fund (Fundo Social de Emergência - FSE) Fiscal Stabilization Fund (Fundo de Estabilização Fiscal- FEF) Decentralization of Union Revenues (DRU)	Reversal	Penalizes North, Northeast, and Central-West states and small municipalities	Itamar Franco, Fernando Henrique (I)
(B) Legislating on Subnational Taxation	Exemption of State Export Tax (Kandir Law) Municipal Tax on Services (ISS) Municipal Tax on Public Illumination	Reform	Penalizes Exporting States Restricts municipality’s tax authority	Fernando Henrique (I), Fernando Henrique (II)

2 The policies shown in Table 2 provided the bases for more than one legislative initiative, so in some cases more than one initiative refers to the same matter.

Type of Issue	Legislation	Effect on 1988 Constitution	Constituent Units Affected	Presidential Term Approved
(C) Legislating on Subnational Policies	Law on Public Contracting Law on Education Guidelines (LDB) Public Administration Reform Contracting Public Servants City Statutes Public-official Payments and Subsidies Municipal Legislative Chambers Piped Gas Subnational Social Security Creation of New Municipalities	Reform	All Constituent Units	Fernando Henrique (I), Fernando Henrique (II)
(D) Legislating on Subnational Expenditures	Ceiling on Personnel Expenditures Earmarking of Expenditures on Education (Fundef and Fundeb) Earmarking of Health Expenditures Social Security Spending Debt Payments Fund to Combat Poverty Fiscal Responsibility Law (LRF)	Reversal	All Constituent Units	Fernando Henrique (I), Fernando Henrique (II), Lula (I)

Source: Official Chamber of Deputies Bulletin (Diários da Câmara dos Deputados).

In Table 2 segment B refers to measures affecting state and municipal taxation. The Kandir Law exonerated exports and semi-manufactured goods from state taxes, thus negatively affecting the ability of exporting states to raise revenue. The other two measures affected taxes collected by municipalities and updated their tax bases and rates. None of these measures required the federal government to exceed its constitutional authority to make policy. The Kandir Law was presented as a complementary law that was addressed to regulate the constitution, since the 1988 FC entitles the federal government to legislate on subnational finances. Constitutional amendments were required for initiatives regarding municipal taxes in the economic fields that municipalities are constitutionally entitled to tax.

Segment C in Table 2 refers to how subnational governments implement policy through rules on contracts with private providers, national standards for the provision of public education, rules for hiring public officials and a statute for subnational urban policies. Subnational social security regimes and the wages and subsidies of subnational elected officials are also regulated. The authority to create new municipalities was transferred from

the states to the federal government, thereby contracting the wave of expanding municipalities that had begun in the early 1990s. This legislation served to restrict the right of subnational units to decide their own policies.

Presenting such proposals to Congress did not involve crossing any policy jurisdiction boundaries and did not reverse the original 1988 Constitution. Since these initiatives were based on articles entitling the federal government to rule on subnational policies, most were initiated as ordinary or complementary laws.

Segment D in Table 2 refer to legislation on state and municipal spending, an important reversal of the original 1988 FC that had given states and municipalities broad authority over their own expenditures. Such legislation substantially reduced subnational governments' authority to decide about their resources. Congress enacted legislation earmarking state and municipal revenues for health care and education, obliged subnational governments to create funds to fight poverty, set conditions and timelines for the subnational payment of debts, established ceilings on the expenditures of municipal legislative chambers and the salaries of public employees, and also restricted subnational debts and spending.

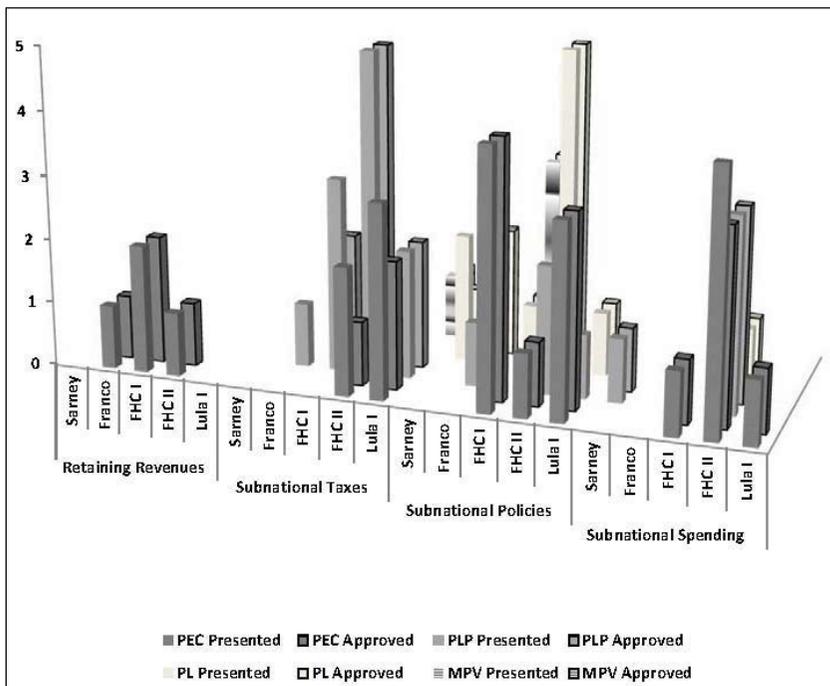
Because such legislation modified the 1988 FC, it partly had to be approved in constitutional amendments, with some initiatives presented as ordinary or complementary laws as a result of the federal government's authority to regulate subnational finance. The Fiscal Responsibility Law, which Hallerberg (2010) referred to as offering a solution for Europe, was approved as a complementary law.

2 Exceptionalism or Normal Operation?

Can the approval of such legislation be interpreted as a systemic outcome? Or is it the result of a rare political moment in which the usual centrifugal forces of Brazilian federalism were defeated by a political consensus that could indicate a constrained center?

Figure 1 distinguishes the various types of legislation submitted and approved by the President. President Sarney (1986–1989) submitted only one complementary law (Proposta de Lei Complementar, PLP) regarding the retention of subnational revenues, which was approved. Presidents Collor de Mello (1990–1991) and Franco (1992–1993) submitted three and six bills, respectively. The former got two approved and the latter three. They cannot be termed “unsuccessful” but in fact, subnational affairs did not seem to be central to their agendas.

Figure 1: Legislative Initiatives by President Type and Result (1989–2006)



Note: PEC = Proposal to amend the constitution; PLP = Proposal to regulate the constitution; PL = bill; MPV = presidential decree.

Source: Diários da Câmara dos Deputados (Chamber of Deputies Official Record).

The federal regulation of subnational affairs was a pillar in the agenda of President Cardoso, who embraced subnational issues to a much larger degree than his predecessors. Of the 59 legislative initiatives examined, 13 were passed in Cardoso’s first term, with 21 legislative proposals affecting states and municipalities approved in his second.

President Lula submitted 12 legislative projects to the Brazilian Congress, nine of which were approved. During his first term, rulings on subnational taxation and policies were given high priority; all initiatives passed. Congress approved nearly all the projects proposed in the administrations of Presidents Collor, Cardoso (I and II) and Lula (I). There is no empirical evidence that the Cardoso administration was a rare moment of political consensus that was induced by exceptional circumstances given that there are no evidences that presidents were defeated in their initiatives to rule over subnational issues.

Collor de Mello and Itamar Franco governed Brazil under very difficult circumstances whereas President Lula is described as a “lucky” president due to the more favorable macroeconomic conditions he inherited. The high inflation, macroeconomic instability and high levels of subnational indebtedness that plagued Presidents Fernando Collor de Mello and Itamar Franco were under control by the time Lula took power. Although the menace of an imminent crisis surely helped President Cardoso get a number of his proposals approved, the large number of changes President Lula’s government was able to effect require some explanation. If Brazil’s center were indeed constrained, even Cardoso could not have gotten so much legislation approved (according to the literature that stresses the centrifugal tendencies of Brazilian federal institutions – Samuels and Mainwaring 2004; Stepan 1999).

3 Two Conditions that Enable the Center

Two institutional conditions enable the center: the federal government’s broad policy-making powers and the majority principle.

3.1 The Federal Government’s Authority

The framers of the 1988 FC did not intend to limit the federal government’s powers. The same act that delegated a number of policies to subnational governments also empowered the federal government to legislate them. Subnational governments were not accorded exclusive authority over their own policies.

Article 21 of the 1988 FC lists 25 items regarding the policy areas that the federal government is entitled to decide. These include infrastructure, communications, urban development, energy, transport, elaborating and executing national and regional plans of territorial ordering, and economic and social development. The 29 items in Article 22 list policy areas in which the federal government has exclusive legislative authority. States and municipalities execute most of these policy areas: water, energy, telecommunications, broadcasting, transport, military and educational policy, and contracting. Articles 21 and 22 have 56 incises: the Constitution accorded the federal government broad legislative authority by putting these policy areas under its competence.

Article 24, which contains only 16 incises, lists areas where legislation – including on environment, education, social security and youth programs – can be made concurrently by the federal government, states and municipalities.

Only two policy areas are the exclusive authority of states: public safety and metropolitan regions. Municipalities have no exclusive authority over any policy areas, despite being fully autonomous members of the federation, whereas the federal government is entitled to initiate legislation in nearly all policy areas. So, far from restricting the federal government, the framers of the 1988 FC conferred upon it wide legislative powers, with decentralized policies that allow it to legislate on subnational policy-making.

The framers of the 1988 Constitution could have created a federal state that would have been systematically deadlocked by combining broad authority to the federal government with the requirement that supermajorities approve federal legislation. This hypothesis is examined in the following section.

3.2 No Need for Supermajorities

The 1988 Constitution did not elaborate any distinct decision-making process for legislation on federal matters: it did not stipulate the need for supermajorities. Legislative initiatives that affect the interests of subnational units follow the same procedural rules as any other type of legislation.

3.3 Constitutional Amendments

Between 1989 and 2006, 53 constitutional amendments were approved, 28 of which concerned federal matters. This corresponds to a rate of 3.5 constitutional reforms per year; in international terms, this is very high.³ If only the reforms of direct relevance to subnational governments are counted, the annual rate drops to 1.8 – which is still high.

Of the 59 legislative initiatives examined, 23 were proposed as constitutional amendments. This outcome is endogenously driven, since the 1988 FC extensively legislated policies (Couto and Arantes 2006), meaning that government majorities that were ideologically different from those at the constitutional assembly would opt to change the Constitution.

Yet eagerness to amend the Constitution does not serve to explain the success rate of these reforms. The fact that 21 of the 23 constitutional amendments examined were approved shows that the institutional obstacles are not especially high.

3 Lutz (1994) compared 32 countries, examining the relation between strategies to approve constitutional reforms and rates of reform, and found a high correlation between these variables. The least-demanding strategy averaged 5.6 amendments per year while the most demanding one managed 1.3 per year.

Although constitutional amendments are the most difficult way to change the legislative *status quo* in Brazil, the requirements are easier there than in many other federations. To amend the Constitution, only two roll-call votes are required in the Chamber of Deputies and the Senate during the same legislative period, with the temporal proximity of those votes making it relatively easy to obtain two consecutive majorities. Moreover, in Brazil only a three-fifths majority is required, whereas two-thirds are typically required when supermajorities are needed. Other rules that require supermajorities to make the amendment process more difficult include additional decision-making arenas, such as nation-wide referenda, as in Italy, or the approval of a qualified majority of state-level legislative assemblies in the United States. A majority coalition in the Brazilian Congress is sufficient to amend the Constitution, meaning that political actors have few other arenas where they can veto proposed amendments. The only alternative is to appeal to the Supreme Court. In Brazil, the constitutional-amendment game “begins and ends” at the center.

The framers of the 1988 FC did not seek to require supermajorities to amend the Constitution. Nor did they attempt to guarantee that opponents of such reforms could obtain a veto in several political arenas. Subnational governments have no opportunity to wield vetoes because all constitutional decision-making power is concentrated in Congress. So any president who manages to keep a stable majority in both legislative chambers has the opportunity to enact constitutional amendments, even if these negatively affect the interests of subnational governments. This also means that since the FC came into force in 1988, minorities have had few institutional opportunities to wield a veto.

3.4 Complementary Laws and Ordinary Legislation

The changes in legislation examined in this article involved more than just constitutional amendments. Major measures such as the Kandir Law (which exempted exporters from paying state taxes), the Camata Law (that put a ceiling on subnational spending for public employees) and the Fiscal Responsibility Law (limiting debts and a number of spending areas) were submitted as complementary laws that were intended to regulate the Constitution. Such legislative initiatives were possible because the 1988 FC entitled the federal government to legislate on subnational finances.

Complementary laws can be introduced in either congressional Chamber, and the reviewing Chamber can present amendments to the original version. If the reviewing Chamber approves a law as submitted, the initiating Chamber need not approve it. But when the reviewing Chamber amends the original version, the project must be returned to the initiating Chamber. A

simple roll-call majority in both Chambers is required for final approval, which means that complementary laws can be approved by 51 percent of the representatives in just one round of roll-call voting in each Chamber. Supermajorities are not required for legislation on subnational finances.

Many of these legislative changes, such as those setting nationwide standards for education policy, dealing with urban development and contracting private providers for public services, were processed as ordinary laws. Although these policies were to be implemented by states and municipalities, the federal government's broad legislative authority entitled the federal executive to initiate ordinary legislation on these matters.

Ordinary laws do not require a plurality for approval, and the initiating Chamber is not obliged to incorporate the changes of the reviewing Chamber. If the reviewing Chamber does not reject the project, it can be approved by a plurality of the representatives present for the vote in each Chamber. Approval can even be made by means of a symbolic (not a roll-call) vote.

Supermajorities in a multiplicity of veto-point arenas are not needed to approve either initiatives to regulate the Constitution or ordinary laws on subnational matters. The combination of the federal government's broad legislative powers with the rules governing decision-making on legislation on subnational issues provides few veto opportunities. This means that when legislative proposals can be framed as either complementary or ordinary laws, no large coalition is needed for approval.

4 Conclusions

This research note confirms Stepan's (1999, 2004) theoretical proposition that a federal state can have political institutions that enable the center to approve legislation aimed at providing national goods: Brazil is one such case, where legislation binding subnational governments to national goals is regularly approved.

However, Stepan incorrectly described Brazil as an extreme case of *demos-constraining* federalism. This note provides evidence about the *demos-enabling* elements of the federal state. Brazilian political institutions enable the federal government to deal with national problems without infringing the rights of subunits, since these are framed to limit the possibilities of minority groups blocking the will of the majority.

In a federation, two institutional conditions significantly help enable the center: the federal government's broad policy-making powers and the majority principle for approving legislation in relatively few veto arenas. The former entitles the national government to initiate legislation in most policy

areas while the latter requires only pluralities – rather than supermajorities – to approve legislation. If those conditions are not combined, however, the center risks being weakened by constraints on initiating legislation or the need for supermajorities to approve it.

References

- Abrucio, Fernando Luiz (1998), *Os Barões da Federação*, São Paulo: Usp/Hucitec.
- Abrucio, Fernando L., and Valeriano Mendes F. Costa (1999), *Reforma do Estado e o Contexto Federativo Brasileiro*, São Paulo: Fundação Konrad-Adenauer-Stiftung.
- Almeida, Maria Hermínia Tavares de (2005), Recentralizando a Federação?, in: *Revista de Sociologia e Política*, 24, 29–40.
- Ames, Barry (2001), *The Deadlock of Democracy in Brazil*, University of Michigan Press.
- Ames, Barry, and Timothy Power (2006), Parties and Governability in Brazil, in: Paul Webb and Stephen White (2006), *Party Politics in New Democracies*, Oxford: Oxford Press, 179–212.
- Arretche, Marta (2010), Federalism, bicameralism and institutional change: exploring correlations and mechanisms, in: *Brazilian Political Science Review*, 4, 2, 10–31.
- Arretche, Marta (2007), The veto power of territorial governments in Brazil: political institutions and representatives voting behavior, in: *Brazilian Political Science Review*, 2, 40–73.
- Bednar, Jenna (2009), *The Robust Federation. Principles of Design*, Cambridge: Cambridge University Press.
- Bednar, Jenna, William N. Eskridge Jr., and John Ferejohn (1999), A Political Theory of Federalism, in: John Ferejohn, Jack N. Ravoche, and Jonathan Riley (eds), *Constitutional Culture and Democratic Rule*, Cambridge: Cambridge University Press, 223–269.
- CEBRAP Legislative Databank
Chamber of Deputies Official Record
- Cheibub, J. A., A. C. Figueiredo, and F. Limongi (2009), Political parties and governors as determinants of legislative behavior in Brazil's Chamber of Deputies, 1988–2006, in: *Latin American Politics and Society*, 51, 1–30.
- Chibber, Pradeep K., and Ken Kollman (2004), *The Formation of National Party Systems*, Princeton: Princeton University Press.
- Couto, Cláudio Gonçalves, and Rogério Bastos Arantes (2006), Constituição, Governo e Democracia no Brasil, in: *Revista Brasileira de Ciências Sociais*, 21, 61, 41–62.

- Cox, Gary, and Mathew McCubins (1993), *The Legislative Leviathan. Party Government in the House*, Cambridge: Cambridge University Press.
- Desposato, Scott (2004), The Impact of Federalism on National Party Cohesion in Brazil, in: *Legislative Studies Quarterly*, 29, 2, 259–285.
- Fenwick, Tracy Beck (2010), The Institutional Feasibility of National-Local Policy Collaboration: Insights from Brazil and Argentina, in: *Journal of Politics in Latin America*, 2, 2, 155–183.
- Figueiredo, Argelina, and Fernando Limongi (1999), *Executivo e Legislativo na Nova Ordem Constitucional*, Rio de Janeiro/São Paulo: FGV/ANPOCS.
- Hallerberg, Mark (2010), Fiscal federalism reforms in the European Union and the Greek crisis, in: *European Union Politics*, 12, 1, 127–142.
- Immergut, Ellen M. (1996), As Regras do Jogo: A Lógica da Política de Saúde na França, na Suíça e na Suécia, in: *Revista Brasileira de Ciências Sociais*, 30, 11, 139–163.
- Lijphart, Arend (1999), *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, New Haven: Yale University Press.
- Limongi, Fernando (2006), A Democracia no Brasil: presidencialismo, coalizão partidária e processo decisório, in: *Novos Estudos CEBRAP*, 76, 17–41.
- Linz, Juan (1994), Presidential or parliamentary democracy: does it make a difference?, in: J. J. Linz and A. Valenzuela (eds), *The Failure of Presidential Democracy*, Baltimore: The Johns Hopkins University Press, 3–87.
- Linz, Juan, and Alfred Stepan (2000), *Inequality Inducing and Inequality Reducing Federalism*, paper presented at the World Congress of the International Political Science Association, 1-5 August 2000, Quebec City, Canada.
- Lutz, Donald S. (1994), Toward a Theory of Constitutional Amendment, in: *American Political Science Review*, 88, 2, 355–370.
- Mainwaring, Scott (1997), Multipartism, Robust Federalism, and Presidentialism in Brazil, in: Scott Mainwaring and Matthew Shugart, *Presidentialism and Democracy in Latin América*, Cambridge: Cambridge University Press, 55–109.
- Mansbridge, Jane J. (1986), *Why we lost the ERA*, Chicago: University of Chicago Press.
- Mayhew, David (1974), *Congress: the Electoral Connection*, New Haven: Yale University Press.
- Melo, Marcus André (2005), O Sucesso Inesperado das Reformas de Segunda Geração: Federalismo, Reformas Constitucionais e Política Social, in: *DADOS*, 48, 4, 845–889.
- Neiva, Pedro (2011), Disciplina partidária e apoio ao governo no bicameralismo brasileiro, in: *Revista de Sociologia e Política*, 19, 183–196.

- Obinger, Herbert, Stephan Leibfried, and Francis G. Castles (eds) (2005), *Federalism and the Welfare State. New World and European Experiences*, Cambridge: Cambridge University Press.
- Pierson, Paul (2007), The Rise and Reconfiguration of Activist Government, in: Paul Pierson and T. Skocpol (eds), *The Transformation of American Politics. Activist Government and the Rise of Conservatism*, Princeton: Princeton University Press, 19–38.
- Pierson, Paul (1995), Fragmented Welfare States: Federal Institutions and the Development of Social Policies, in: *Governance: An International Journal of Policy and Administration*, 8, 4, 449–478.
- Riker, William (1975), Federalism, in: Fred I. Greenstein and Nelson W. Polsby (eds), *Handbook of Political Science, Volume 5: Governmental Institutions and Processes*, Addison-Wesley, 93–172.
- Riker, William (1964), *Federalism: Origin, Operation, Significance*, Boston: Little Brown.
- Rodden, Jonathan A. (2006), *Hamilton's Paradox. The Promise and Peril of Fiscal Federalism*, Cambridge: Cambridge University Press.
- Rodden, Jonathan, and Susan Rose-Ackerman (1997), Does Federalism Preserve Markets?, in: *Virginia Law Review*, 83, 7, 1521–1572.
- Samuels, David (2003), *Ambition, federalism, and legislative politics in Brazil*, Cambridge: Cambridge University Press.
- Samuels, David, and Scott Mainwaring (2004), Strong federalism, constraints on the central government, and economic reform in Brazil, in: Edward L. Gibson (ed.), *Federalism and Democracy in Latin America*, Baltimore/London: The Johns Hopkins University Press, 85–129.
- Scharpf, Fritz (1988), The Joint-Decision Trap: Lessons from German Federalism and European Integration, in: *Public Administration*, 66, 239–278.
- Shugart, M. S., and J. M. Carey (1992), *Presidents and Assemblies: Constitutional Design and Electoral Dynamics*, New York: Cambridge University Press.
- Stepan, Alfred (2004a), Toward a New Comparative Politics of Federalism, Multinationalism, and Democracy: Beyond Rikerian Federalism, in: Edward L. Gibson (ed.), *Federalism and Democracy in Latin America*, Baltimore/London: The Johns Hopkins University Press, 29–83.
- Stepan, Alfred (2004b), Electorally Generated Veto Players in Unitary and Federal Systems, in: Edward L. Gibson (ed.), *Federalism and Democracy in Latin America*, Baltimore/London: The Johns Hopkins University Press, 29–84.
- Stepan, Alfred (1999), Para uma Nova Análise Comparativa do Federalismo e da Democracia: Federações que Restringem ou Ampliam o Poder da Demos, in: *DADOS*, 42, 2, 197–251.

- Treisman, Daniel (2007), *The Architecture of Government: Rethinking Political Decentralization*, Cambridge: Cambridge University Press.
- Tsebelis, George (2002), *Veto Players: How Political Institutions Work*, Princeton: Princeton University Press.
- Weaver, R. Kent, and Bert A. Rockman (eds) (1993), *Do Institutions Matter? Government Capabilities in the United States and Abroad*, Washington: Brookings.
- Weingast, Barry (1995), The Economic Role of Political Institutions: Market-Preserving Federalism and Economic Development, in: *The Journal of Law, Economics, & Organization*, 11, 1, 1–31.
- Wibbels, Erik (2000), Federalism and the Politics of Macroeconomic Policy and Performance, in: *American Journal of Political Science*, 44, 4, 687–702.

Federalismo Demos-constraining ou Demos-enabling? Instituições Políticas e Mudanças de Políticas no Brasil

Resumo: Esta nota de pesquisa mostra os elementos de tipo demos-enabling do federalismo e examina o processo decisório de 59 iniciativas legislativas referentes aos impostos, políticas e gastos dos governos subnacionais submetidas ao Congresso Brasileiro de 1989 a 2006. A combinação de instituições políticas – amplas competências da União sobre políticas e o princípio majoritário para aprovação de mudanças no *status quo* – fortalecem o governo central sem diminuir os direitos das unidades constituintes. Como resultado, supermaiorias em uma multiplicidade de pontos de veto não são necessárias para aprovar legislação nacional orientada a prover bens nacionais assim como minorias regionais têm poucas oportunidades institucionais de veto.

Palavras-chave: Brazil, federalismo comparado, demos-enabling